



January 3, 2000

Ms. Katherine Minter Cary
Assistant Attorney General
Public Information Coordinator
P. O. Box 12548
Austin, Texas 78711-2548

OR2000-0005

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 130249.

The Office of the Attorney General (the "OAG") received a request for copies of any paper or electronic documents that pertain to any State of Texas contracts for legal services with two specifically identified persons and a law firm. You state that many of the responsive documents have been released. However, on behalf of the General Land Office, you seek to withhold from disclosure the attorney billing statements under sections 552.101, 552.103, 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.¹

You argue that all of the information contained in the attorney billing statements is excepted from disclosure under section 552.103. We note, however, that, except for information that is protected by attorney-client privilege, information contained within an attorney billing statement is expressly made public by section 552.022(a)(16) of the Government Code. Therefore, we will only address your arguments under section 552.107.

Section 552.107(1) excepts from disclosure information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574, this office concluded that

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

section 552.107 excepts from public disclosure only “privileged information,” that is, information that reflects either confidential communications from the client to the attorney or the attorney’s legal advice or opinions; it does not apply to all client information held by a governmental body’s attorney. Open Records Decision No. 574 at 5 (1990). When communications from attorney to client do not reveal the client’s communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney’s legal opinion or advice. *Id.* at 3. In general, documentation of calls made, meetings attended, or memos sent is not protected under this exception. *See* Open Records Decision Nos. 589 (1991), 212 (1978) (even though content of a communication might be confidential, fact of a communication is ordinarily not excepted from disclosure). In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We note that some of the information at issue contains an attorney’s legal opinion, recommendations, or advice and, therefore, may be withheld under section 552.107(1). However, the remaining information is not protected under section 552.107(1) and must be released. We have marked the documents accordingly.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

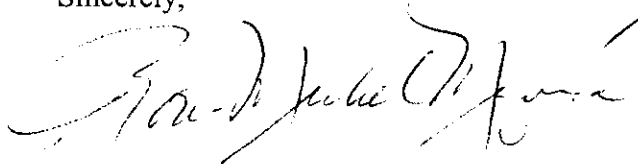
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía", written in a cursive style.

Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM/jc

Ref.: ID#130249

Encl.: Submitted documents

cc: Ms. Joanne Savage
Research Analyst
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